IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 26789 of 2003(L)

PETITIONER:

T.JAYAPRAKASH, TECHNICAL ASSISTANT
CHEMICAL EXAMINERS LABORATORY,
THIRUVANANTHAPURAM.

BY ADV. SRI.CHERIAN VARGHESE.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVT. HOME DEPARTMENT, GOVT.SECRETARIAT, THIRUVANANTHAPURAM.**
2. **CHIEF CHEMICAL EXAMINER, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH, J.

W.P.(C) NO. 26789 OF 2003 L

Dated this the 19th day of February,2007

JUDGMENT

This Writ Petition is filed with the following prayers:

"i) to call for the entire records which lead to the passing of Ext.P6 and quash the same by issuance of a writ of certiorari or any other writ direction or order.

ii) to direct the 2nd respondent to declare that the petitioner has successfully completed his probation on 3.7.95 and not to forfeit his past service from 17.6.91 to 24.11.1998 and grant all consequential benefits by issuance of writ of mandamus or any other writ or direction or order.

Iii) to direct the 2nd respondent to treat the service from 17.6.91 to 24.11.98 for all service benefits including to calculate probation and grant all consequential benefits by issuance of a writ of mandamus or any other writ or direction."

In Ext.P6, the Government has referred to letter dated 28.8.2002, whereby the service of the petitioner was regularised in the post of Laboratory Assistant with effect from 25.11.1998. According to the petitioner,

had the second respondent taken timely action on the leave application submitted by the petitioner, there would not have been any difficulty for the petitioner in getting his leave sanctioned on medical certificate. The inaction on the part of the second respondent only caused serious difficulty to the petitioner in view of the delay in declaration of his probation. As regards the Government letter referred to above, it is submitted that the petitioner did not have any notice. In the counter affidavit filed it is stated that it is the petitioner who has not co-operated with the department and he never responded to the letters issued to him from the office of the Chief Chemical Examiner. According to the petitioner, the letters were addressed in his former address and hence only he could not responded to the communications. Be that as it may, one of the main contentions taken by the petitioner is that all the departmental communications were issued behind his back and hence the petitioner never got an opportunity to substantiate his case.

In the above circumstances, the Writ Petition is disposed of as follows: In the event of the petitioner filing a comprehensive representation pointing out his grievances regarding non-receipt of the communications, before the second respondent within a period of one month from today, the matter will be duly considered by the second respondent with notice to the petitioner within another three months. It will be open to the petitioner to take all other contentions including the contention based on the decisions in **Pushpangadan** v. **State of Kerala** (2002(3) KLT 519) and **Rajan** v. **State of Kerala** (2005 (1) KLT 250).

(KURIAN JOSEPH)
Judge

ahz/

KURIAN JOSEPH,J.

W.P.(C)NO. OF

JUDGMENT

19th February, 2007